

## **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

### **38.06.01 - RULES GOVERNING THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION**

#### **DOCKET NO. 38-0601-0401 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is December 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 31-4816(9), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 15, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Emergency Communications Commission ("Commission") was established in the Department of Administration, effective July 1, 2004, pursuant to Section 31-4815, Idaho Code. The Commission has rulemaking authority pursuant to Section 31-4816(9), Idaho Code. Pursuant to Section 31-4817, Idaho Code, the Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. Mediation pursuant to Section 31-4817, Idaho Code, is a condition precedent to local government agencies initiating other legal proceedings. These rules will govern the mediation process.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Mediation will benefit cities, counties, ambulance districts and fire districts operating consolidated emergency communications systems.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking and because of the concise and simple nature of the rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 22, 2004.

DATED this 28th day of October, 2004.

Joanna L. Guilfooy  
Deputy Attorney General  
Department of Administration  
650 W. State Street  
P.O. Box 83720, Boise, Idaho 83720-0003  
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0601-0401

IDAPA 38  
TITLE 06  
CHAPTER 01

**38.06.01 – RULES GOVERNING THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION**

**000. LEGAL AUTHORITY.**

The following rules are promulgated in accordance with Section 31-4816(9), Idaho Code, by the Commission.

(12-1-04)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 38.06.01, “Rules Governing the Idaho Emergency Communications Commission”.

(12-1-04)T

**02. Scope.** Pursuant to Section 31-4817, Idaho Code, the Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. Mediation pursuant to Section 31-4817, Idaho Code, is a condition precedent to local government agencies initiating other legal proceedings. These rules will govern the mediation process.

(12-1-04)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Commission may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this Commission.

(12-1-04)T

**003. ADMINISTRATIVE APPEALS.**

This chapter does not provide for administrative appeals of the procedures set forth in this chapter.

(12-1-04)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter.

(12-1-04)T

**005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS.**

The Idaho Emergency Communications Commission is located in the Department of Administration at 650 W. State Street, Boise, Idaho, 83720-0003. The Commission’s mailing address is P.O. Box 83720, Boise, Idaho 83720-0003. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

(12-1-04)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code).

(12-1-04)T

**007. -- 010. (RESERVED).**

**011. DEFINITIONS.**

**01. Commission.** The Idaho Emergency Communications Commission as established within the Department of Administration by Section 31-4815(1), Idaho Code.

(12-1-04)T

**02. Local Government Agency.** Those entities subject to Sections 31-4801 through 31-4818, Idaho Code.

(12-1-04)T

**03. Mediation.** The process required by Section 31-4817, Idaho Code, as a condition precedent to local government agencies initiating any legal action. (12-1-04)T

**04. Submission.** Submission of the issues for mediation has occurred when the documents referred to in Sections 012., 020. and 035., if required, have been received by the Commission. (12-1-04)T

**012. REQUEST FOR MEDIATION.**

The parties must submit a written request for mediation to the Commission. The written request must demonstrate to the reasonable satisfaction of the Commission that all parties are requesting the mediation. (12-1-04)T

**013. SCHEDULED GROUP MEDIATION.**

Within fifteen (15) days from the date of receipt of a request for mediation, the Commission shall schedule a date for a mediation at which all parties and a quorum of the Commission can be present. The Commission shall notify the parties in writing of the date of the group mediation. (12-1-04)T

**014. REQUIREMENT OF SUBMISSION OF DOCUMENTS AND EXHIBITS.**

The Commission may require the parties to produce documents at or before the date set for the group mediation. Such documents may include, but are not limited to, individual statements of position from each party. The Commission shall notify the parties in writing of any documents that may be required to be produced and the date of submission. No later than the date set by the Commission, the parties shall exchange and simultaneously submit to the Commission the required documents and exhibits. (12-1-04)T

**015. -- 019. (RESERVED).**

**020. INDIVIDUAL POSITION STATEMENTS.**

If the Commission requires individual statements of position from each party, the statements of position should begin with a one (1) page statement of the dispute. (12-1-04)T

**01. Stipulation of Facts.** The parties are encouraged to stipulate to as many facts as possible and clearly identify what facts are being stipulated. (12-1-04)T

**02. Supporting Documents.** The parties should present their entitlement position with specific references to appropriate supporting documents, to be included with the statement of position. (12-1-04)T

**021. -- 024. (RESERVED).**

**025. JUDICIAL RULES.**

The Commission will not be bound by any judicial rules of evidence or burden of proof applicable to civil proceedings. (12-1-04)T

**026. -- 029. (RESERVED).**

**030. GROUP MEDIATION.**

The Commission chairman, or in his absence the vice-chairman or other commissioner designated by the chairman, will preside over the mediation. (12-1-04)T

**01. Initial Presentation.** Each party shall make an initial presentation of its position with respect to the dispute. (12-1-04)T

**02. Rebuttals.** The Commission may allow rebuttals to such presentations when it considers them relevant or necessary to make its recommendations. (12-1-04)T

**03. Time Limits.** The Commission may set and limit the time of any presentation as it deems necessary for a sufficient understanding of the facts or issues to make its recommendation. (12-1-04)T

**04. Questions by Commission.** The Commission may question the parties during the group mediation. (12-1-04)T

**031. -- 034. (RESERVED).**

**035. SUPPLEMENTAL DOCUMENTATION.**

The Commission may require the parties to provide supplemental documentation and may establish a date by which such documentation is due. (12-1-04)T

**036. -- 039. (RESERVED).**

**040. COMMISSION RECOMMENDATION.**

**01. Time of Recommendation.** No later than sixty (60) days from the date of submission of the issues to it, the Commission shall make its recommendation to the parties. (12-1-04)T

**02. Recommendation Oral or Written.** The Commission may make such recommendation orally or in writing. (12-1-04)T

**03. Parties Can Accept in Whole or Part.** The parties may accept the recommendation of the Commission in whole or in part. (12-1-04)T

**041. -- 044. (RESERVED).**

**045. TERMINATION OF MEDIATION.**

The mediation shall be terminated: (12-1-04)T

**01. Settlement.** By the signing of a settlement agreement between the parties covering any or all of the issues between them; and/or (12-1-04)T

**02. Failure to Agree.** By the written declaration of all parties and the chairman, on behalf of the Commission, that the parties could not come to an agreement in the mediation covering any or all of the issues between them. (12-1-04)T

**046. -- 999. (RESERVED).**